

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

TRISTAN SQUERI, MADELINE McCLAIN, and  
GEORGE O'DEA individually, and on behalf of all  
others similarly situated,

Plaintiffs,

v.

MOUNT IDA COLLEGE, THE MOUNT IDA  
COLLEGE BOARD OF TRUSTEES, BARRY  
BROWN, individually and as a representative of  
Mount Ida College, CARMIN C. REISS, individually  
and as a representative of the Mount Ida College  
Board of Trustees, JASON POTTS, individually and  
as a representative of Mount Ida College, JEFF  
CUTTING individually and as a representative of  
Mount Ida College, and RON AKIE, individually and  
as a representative of Mount Ida College,

Defendants.

C.A. No. 1:18-cv-12438-RGS

**\*ORAL ARGUMENT  
REQUESTED\***

**MOTION TO DISMISS**

Defendants Mount Ida College, the Mount Ida College Board of Trustees, Carmin C. Reiss, Jeff Cutting, and Ron Akie (the “Defendants”) respectfully move this Court to dismiss the Complaint in the above-caption action. In support, and as explained in more detail in the accompanying memorandum of law, the Defendants request dismissal of the Complaint on the following grounds:

First, all claims against the Mount Ida College Board of Trustees must be dismissed because it is not a proper party;

Second, all claims against the individual Trustees of Mount Ida College must be dismissed pursuant to the Massachusetts Charitable Immunity Statute, M.G.L. ch. 231, § 85K and the Federal Volunteer Protection Act, 42 U.S.C. § 14501;

Third, Plaintiffs' claim for breach of contract must be dismissed because Plaintiffs fail to allege the existence of a contract;

Fourth, Plaintiffs' claim for breach of fiduciary duty must be dismissed because Plaintiffs lack standing;

Fifth, Plaintiffs' claim for a violation of M.G.L. ch. 93A fails because Mount Ida (and the individual defendants) were not engaged in "trade or commerce" as required by statute;

Sixth, Plaintiffs' fraud claims must be dismissed for failure to plead with particularity pursuant to Massachusetts law and Fed. R. Civ. P. 9(b), and because Plaintiffs' have not alleged reasonable reliance as required under Massachusetts law; and

Seventh, Plaintiffs' claim for a violation of M.G.L. ch. 214, § 1B must be dismissed because Plaintiffs fail to allege plausibly that any disclosure "unreasonably, substantially, and seriously interfered" with their privacy as required under Massachusetts law.

WHEREFORE, Defendants Mount Ida College, The Mount Ida College Board of Trustees, Carmin Reiss, Jeff Cutting, and Ron Akie respectfully request that the Court grant this motion and dismiss Plaintiffs' complaint in its entirety with prejudice and without leave to amend.

#### **REQUEST FOR ORAL ARGUMENT**

The Defendants respectfully request oral argument on this Motion to Dismiss pursuant to Local Rule 7.1(d).

#### **CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1**

I, Paul G. Lannon, Jr., hereby certify that I conferred with counsel of record for Plaintiffs, Joshua Garick, by telephone on January 24, 2019, about the substance of this Motion, and attempted in good faith to resolve or narrow the issues addressed in this Motion.

/s/ Paul G. Lannon, Jr.

Paul G. Lannon, Jr.

Respectfully submitted,

MOUNT IDA COLLEGE, THE MOUNT  
IDA COLLEGE BOARD OF TRUSTEES,  
CARMIN C. REISS, JEFF CUTTING, and  
RON AKIE,

By their attorneys,

/s/ Jeremy M. Sternberg

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Jeremy M. Sternberg (BBO No. 556566)  
Paul G. Lannon Jr. (BBO No. 563404)  
John J. Monaghan (BBO No. 546454)  
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Dated: January 28, 2019

**CERTIFICATE OF SERVICE**

I, Christopher M. Iaquinto, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this 28th day of January, 2019.

/s/ Christopher M. Iaquinto

Christopher M. Iaquinto

Dated: January 28, 2019